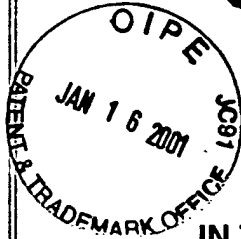


Customer Number 22,852  
Attorney Docket No. 3806.0448



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:**

Joel CROUZET, *et al.*

**Serial No.: 09/369,883**

Filed: August 9, 1999

For: FORMULATION OF STABILISED  
CATIONIC TRANSFECTION  
AGENT(S)/NUCLEIC ACID  
PARTICLES

)  
)  
) Group Art Unit: 1636  
)  
) Examiner: W. Sandals

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Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

## **RESPONSE TO RESTRICTION REQUIREMENT**

Applicants file this Response to the Office Action mailed November 17, 2000. By virtue of the concurrently-filed Petition for a One-Month Extension of Time and appropriate fee, the Response is due by January 17, 2001, and is timely filed. Applicants respectfully request reconsideration of the restriction of Claims 1-20, 22-25, and 27-51.

## **SUMMARY OF ELECTION REQUIREMENT**

The Examiner states that claims 1-6, 9-17, 22, 23, 25, 27-37, 39-40, 42-44 and 47-51 are generic, but contends that six patentably distinct species are claimed and require restriction under 35 U.S.C. § 121.

Species I, the non-ionic surface active agent of claims 7, 8, 45, and 46.  
Species II, the non-ionic surface active agent of claims 18 and 19.

Species III, the non-ionic surface active agent of claim 20.  
 Species IV, the non-ionic surface active agent of claim 24.  
 Species V, the non-ionic surface active agent of claim 38.  
 Species VI, the non-ionic surface active agent of claim 41.

Upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

(Office Action, pages 2 and 3.) As the basis for requiring this restriction/election, the Office has only provided that the restricted claims are each directed to "patentably distinct" species of non-ionic surface active agents. *Id.*, page 3. Also, the Office states that a prior art reference anticipating one of the groups would not render obvious the other groups under 35 U.S.C. 103. *Id.*

### ELECTION

Applicants provisionally elect to prosecute group I -- compositions and processes comprising a non-ionic surface-active agent of claim 7, 8, 45 or 46, wherein the non-ionic surface-active agent is a polyoxyalkylene of the formula:

$\text{HO}(\text{CH}_2\text{CH}_2\text{O})_a(\text{CH}(\text{CH}_3)\text{CH}_2\text{O})_b(\text{CH}_2\text{CH}_2\text{O})_c\text{H}$ , wherein a, b and c are, independently, a number from 20 to 100—with traverse. The Examiner has stated that the claims will be restricted to the single elected species if no generic claim is finally held to be allowable.

*Id.*, page 2.

In accordance with the Examiner's request for election of a particular species for search purposes, Applicants provisionally elect, with traverse, the surface-active agent species:  $\text{HO}(\text{CH}_2\text{CH}_2\text{O})_a(\text{CH}(\text{CH}_3)\text{CH}_2\text{O})_b(\text{CH}_2\text{CH}_2\text{O})_c\text{H}$ , wherein a = 75, b = 30, and c = 75. This surface-active agent also has the trade name Pluronic F68®, and is disclosed in the Specification on page 26, lines 5-8.